

California, Crime, Prison Population, and “Three Strikes”

**By Chuck Poochigian
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When legislators or the voters approve measures to increase criminal penalties, such as “Three Strikes and You’re Out,” One Strike Rape, or 10-20 Life, they believe that it will reduce crime, save lives, and deter would-be criminals. Opponents argue that penalty enhancements cost billions, cause prison populations to explode and have very little deterrent impact on crime.

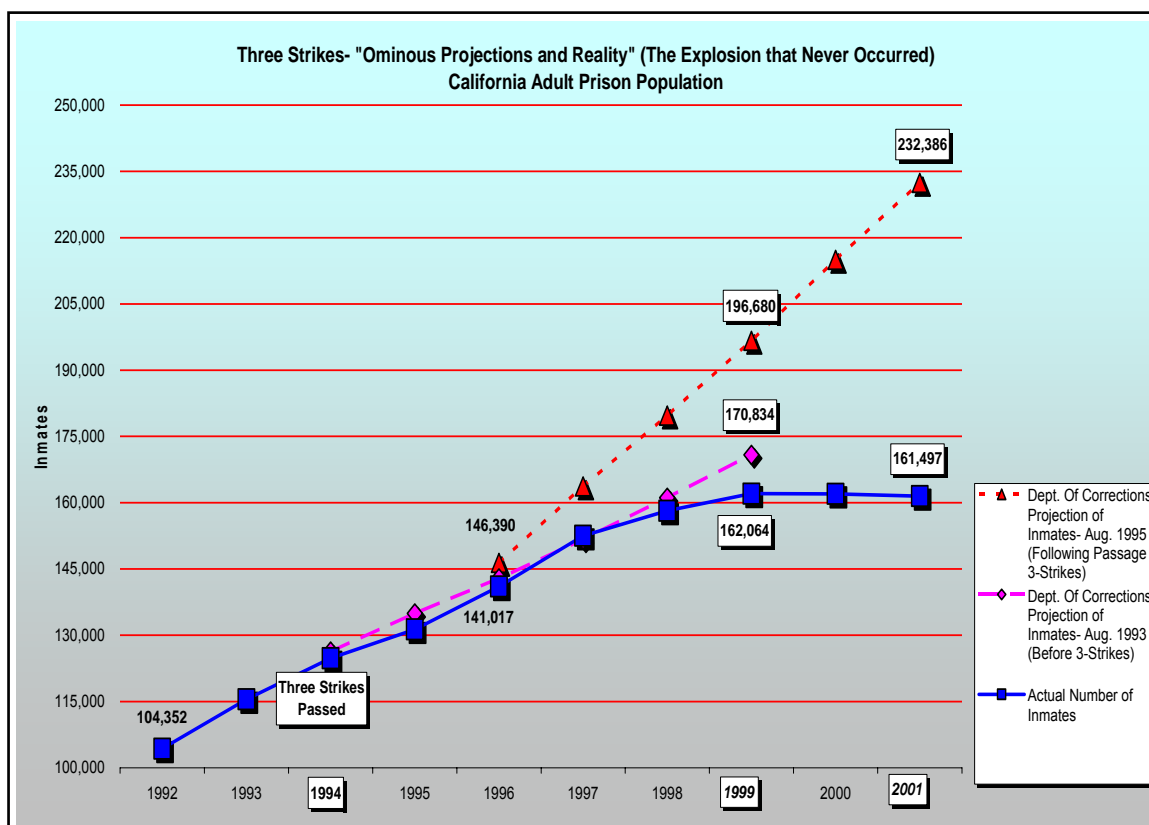
A detailed look at “Three Strikes,” with over 10 years of data, will help policy makers and the public understand the extent to which criminal penalties make a difference.

Myth Number One – Prison Populations Will Explode

In the Legislative Analyst’s Office (LAO) estimate on the fiscal effects of Three Strikes, submitted to voters for the November 1994 general election, it was concluded that:

“By the year 2003 the additional costs [associated with the passage of Three Strikes] will reach about \$3 billion and will grow to about \$6 billion by the year 2026. These amounts assume that the changes will add about 270,000 more inmates to the state’s prison population than would have occurred.” (Legislative Analyst Ballot Argument, 1994)

The good news is that a recent Legislative Analyst report acknowledges that the explosion in prison population predicted in 1994 by analysts and trumpeted by opponents of Three Strikes never occurred. In 2005, the LAO acknowledged that “1994 analysts [the LAO itself] predicted that Three Strikes would result in over 100,000 additional inmates in state prison by 2003. Clearly that rate of growth has not occurred.” (http://www.lao.ca.gov/2005/3_Strikes/3_strikes_102005.pdf Page 15) California’s prison population has simply not experienced the explosive growth projected by opponents in 1994. Moreover, actual growth has been modest when compared with the growth experienced during the ten years prior to the adoption of Three Strikes.



California's Prison Population: Pre-Three Strikes Projections:

The history of growth and projected growth in California's prison population is particularly revealing. In 1994, when Three Strikes became law, California's prisons housed approximately 125,000 inmates. In the 10 years preceding the passage of Three Strikes, the system had grown 190% (from 42,130 on June 30, 1984, to 124,813 in 1994). On August 30, 1993, seven months before Three Strikes was first signed into law, the California Department of Corrections published its projected population estimates through June 30, 1999, at which point the adult inmate population was expected to grow to 170,834 inmates, a 35% increase.

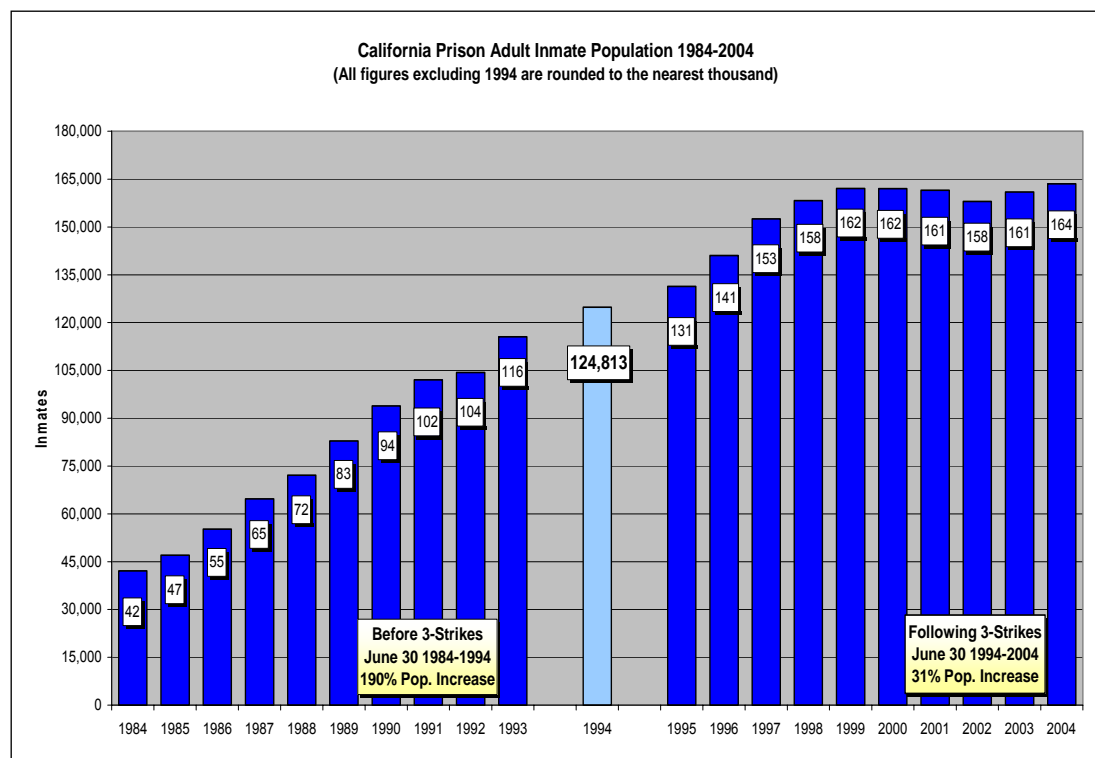
Post "Three Strikes" Projections:

The Three-Strikes law, itself an initiative measure, appeared on the November 1994 ballot as Proposition 184 and was approved by 72 percent of the voters. It followed the passage of legislation with identical language (Assembly Bill 971 – Jones) which was passed by a Democratic controlled Legislature that same year. On August 28, 1995, the Department of Corrections published population projections which were adjusted to reflect the explosive growth predicted by academics and other purported experts incident to the passage of Three Strikes. The fall 1995 projection increased the anticipated 1999 mid-year inmate population to 196,680 -- a 58% jump in the projected increase.

Actual Prison Population:

On June 30, 1999, five years after the passage of Three Strikes, the actual inmate population was 162,064, an increase far less than the two earlier projections.

Coincidentally California crime rates dropped to historic (30 year) lows. Three Strikes had not caused the 1999 inmate population to increase to 196,680 as projected or, for that matter, the



170,834 estimated in 1993, the year before "Three Strikes" became law. Moreover, two years later, on June 30, 2001, California's inmate population declined to 161,497 more than 70,000 inmates fewer than the 232,384 anticipated by California Department of Corrections in its August 1995 projection. Twelve months later, on June 30, 2002, California's inmate population dropped again for the third year in a row, this time to 157,979.

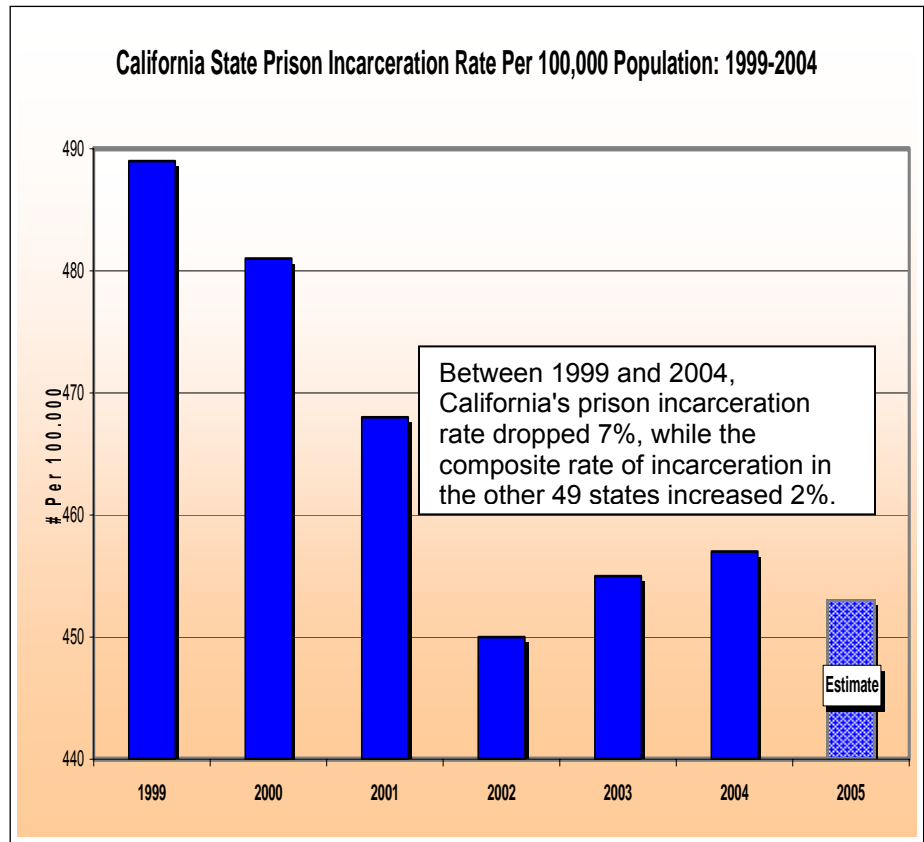
California's population growth slowed to nearly a halt within 5 years of the passage of Three Strikes and grew by less than 1% between 1999 and 2004.

California's Prison Population Compared to Other States:

Because of the vast amount of misinformation disseminated by opponents of the criminal justice system, few in the public know that at least 15 states have a greater incarceration rate than California (per 100,000 population).

When adjusted for the growth in California's overall population, the state's rate of incarceration has dropped since 1999. In fact, California's incarceration rate was greater on June 30, 1997, than eight years later (June 30, 2005) when the adult population stood at 164,179.

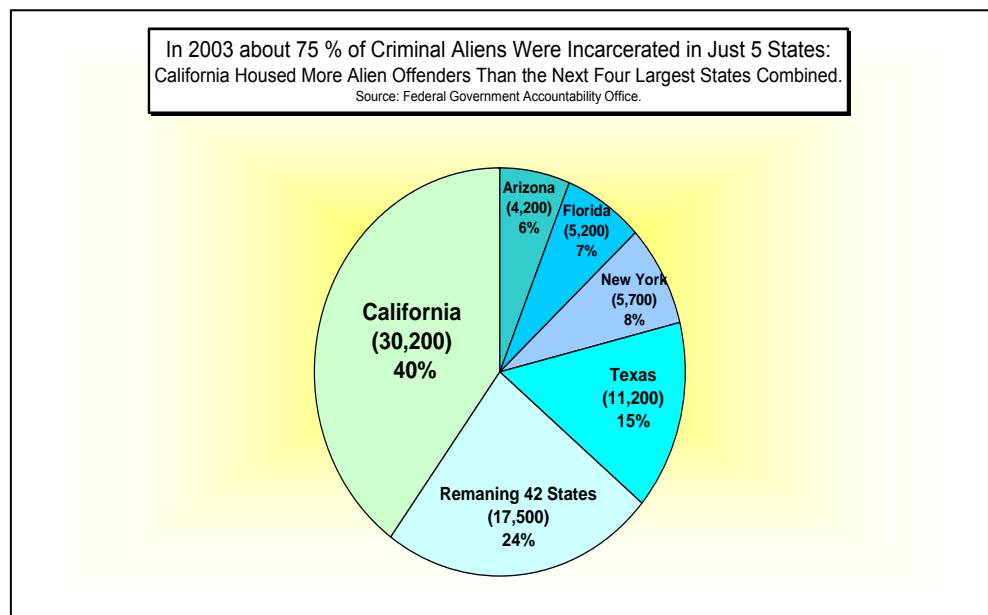
In the ten years following the adoption of Three Strikes, California's incarceration rate grew more slowly than the composite rate of incarceration for the other 49 states. Between 1994 and 2004, the national increase in state prison inmate population was 10% higher than in California alone. During the last five of these years, (1999 – 2004) California's incarceration rate actually *decreased* 7%, while the average incarceration rate for the other 49 states *increased* 2%.



Source: US Bureau of Justice Statistics Bulletin—"Prison and Jail Inmates at Midyear 2004"

Additionally, California's incarceration rate would fall below the average for all states were it not for the number of criminal alien inmates housed in its facilities. In 2003, 18% of California's entire prison population (30,200) were classified as criminal alien inmates by the Federal Government Accountability Office.

This number represents 40% of the criminal alien inmates in the nation and more than the next four states combined. The Governor's Budget summary for 2003-04 estimated that a more modest 21,000 criminal alien prisoners met this designation. Whichever figure is accurate, it is important to note



that this group of offenders are legally the responsibility of the U.S. government but fill the equivalent of 4 to 6 California state prisons at a cost approaching \$1 billion annually.

Myth Number Two – Increased Penalties Have No Effect on Crime Rates:

Despite a drop of approximately 50% in every major crime category in the period immediately following its adoption, is it possible that Three Strikes had no significant impact on the incidence of crime?

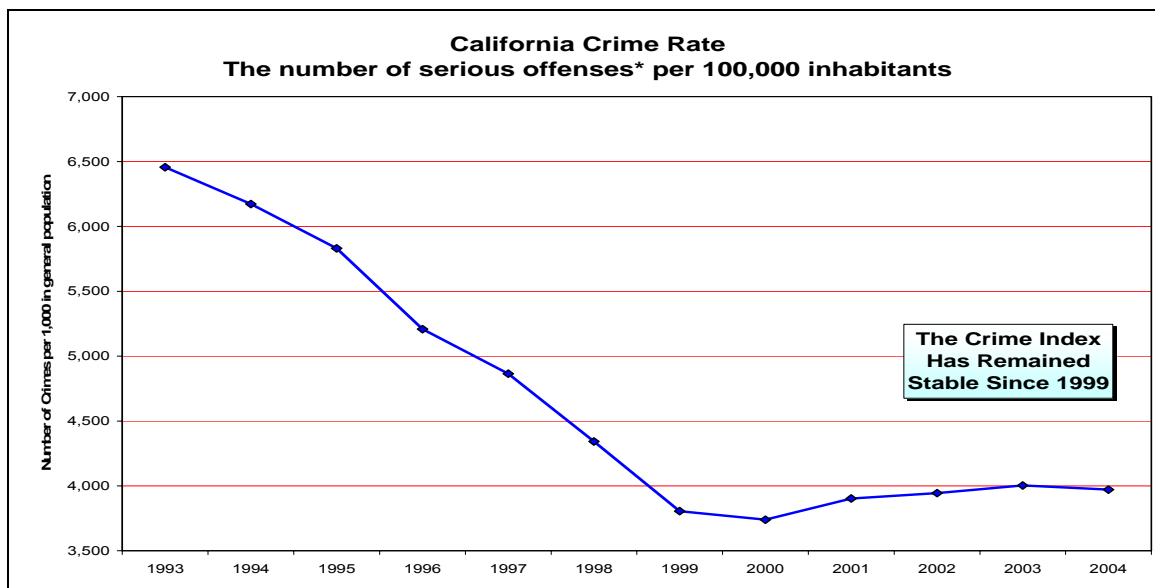
It is a fact that most major crime rates dropped by half between the time Three Strikes was adopted in 1994, and its fifth full year of implementation in 1999, and it remains much lower than before. For example, in 1993 California suffered 4,095 homicides – an all-time high. By 1999, five years after voters approved Three Strikes, the number of California homicides dropped by more than half to 2,006. During the same period, robberies dropped from 126,347 to 60,027 and burglaries from 413,671 to 223,828.

Three Strikes: California Crime Levels After the First Five Years: 1994-1999

Offense*	Murder	Rape	Robbery	Burglary	Auto Theft
1993	4,095	11,754	126,347	413,671	319,225
1999	2,006	9,443	60,027	223,828	168,465
Offense Decrease 1993-1999	(2,089) ↓	(2,311) ↓	(66,320) ↓	(189,843) ↓	(150,760) ↓
**Rate Decrease 1993-1999	54% ↓	25% ↓	56% ↓	50% ↓	51% ↓

* Source of all crime statistics is the California Crime Index.

** Rate comparison per 100,000 population for respective years.



After dropping to the lowest levels experienced in over 30 years (1999), most categories of crime (with the notable exception of vehicle theft) remained stable during the next 5 years (through 2004).

Myth Number Three - The Decline in California Crime Was Just Part of a National Trend:

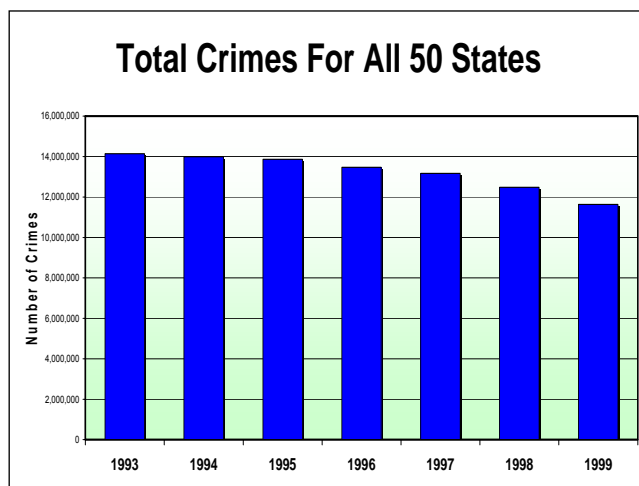
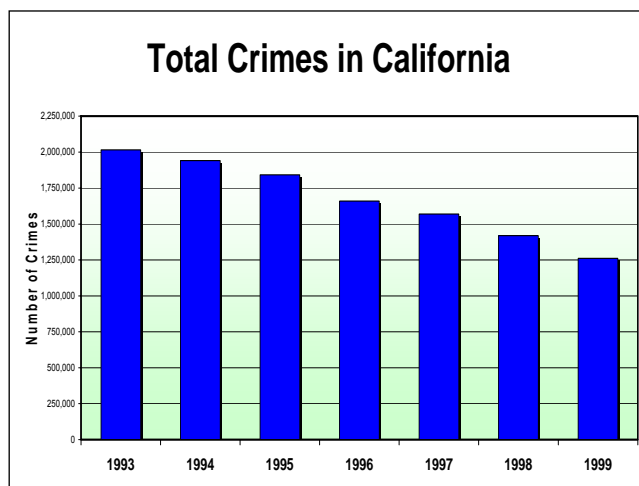
Faced with the numbers, it is plain to see that crime dropped precipitously following passage of Three Strikes. Opponents, however, hasten to assert that the favorable results can not be attributed to obvious causes like Three Strikes or other tough-on-crime laws, but to more subtle influences including demographics, economic factors or that the decline was just part of a national trend.

Since California has such a large overall population, when major crime categories drop dramatically within the state, it creates changes in the national trend. An examination of the record demonstrates that California was a trendsetter in the 1990s – changing public policy that led to declining crime in California as well as nationally.

The FBI's U.S. Crime Index reflects approximately 2.5 million fewer crimes in 1999 than in 1993. Over 30% of this entire national decline in crime is attributable to the fact that the number of crimes in California dropped by more than 754,000 during this period. This precipitous decrease in the number of California crimes occurred despite an overall increase of 2 million in the state population. Moreover, 23% of the national decline in homicides between 1993 and 1999 were the result of 2,006 fewer homicides in California during 1999. Nonetheless, some continue to question whether nationwide trends have greater impact on crime in California than did Three Strikes. The FBI's annual publication, "*Crime in the United States*," is particularly instructive. California's total crime rate in 1993, the year prior to adoption of Three Strikes, was fourth highest among all states, surpassed only by Florida, Arizona, and Louisiana. By 1999, California's total crime rate dropped to 29th among the states! During the same period California's homicide rate dropped from fourth highest to 19th among the states.

Of course California was not the only state to aggressively increase penalties in the 1990s as part of an effort to reduce crime. Early success in California and several other states caused many others to follow. Particular changes in criminal laws, the timing of the changes, and the results all varied widely from state to state. However the consistent decline in crime experienced in California, beginning in 1994 and in the following five years, was not experienced in many other states and was simply not reflective of any consistent national or regional pattern.

Opponents have never disclosed what national phenomena, demographic shift, or financial factors caused California's total crime index to decline from fourth worst to 29th among all states in just five years following the adoption of Three Strikes. Could it be that what went right in California was a California phenomenon? And furthermore, if California's unprecedented decline in crime was a product of some nationwide trend, why weren't all states told?



Myth Number Four – California’s Prisons are Full of Non-violent, Non-serious Offenders:

A common argument that opponents of Three Strikes have made is that the law is filling our prisons with low-level offenders and drug addicts who are undeserving of the sentences they have received. Opponents regularly cite anecdotal stories of a pizza or bicycle thief who was sentenced to 25-years-to-life under Three Strikes. While these stories may sound compelling, they ignore the facts. Anyone convicted under Three Strikes already has to have had at least two serious or violent felonies that qualify as strikes. Many career criminals have extensive rap sheets, though few, if any, strikes. The suggestion that our prisons are predominately packed with non-serious, non-violent felons is patently false.

A 2004 analysis of California’s prison population shows that at least 87% of male inmates were convicted of crimes against the person, serious or violent crimes, or crimes aggravated by prior felony convictions. Only 10% of offenders were committed for offenses which can be characterized as non-serious (theft crimes or possession of a controlled substance) without apparent aggravating factors of prior felony convictions reflected in their commitment status. Moreover, Since the advent of Proposition 36 in 2000, it has become even more unlikely that an offender convicted of simple possession of drugs for personal consumption would be incarcerated in a state prison cell.

CALIFORNIA STATE PRISON POPULATION (MALE)

December 31, 2004	(147,698)
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97% of male inmates are identifiable by controlling offenses

Murder	13.6%
Manslaughter	2.2%
Robbery	11.5%
Assault/Battery or with deadly weapon	14.3%
Rape, child molest and other sex offenses	9.3%
Kidnapping	1.6%
CRIMES AGAINST THE PERSON SUBTOTAL	(52.5%)
Burglary	8.0%
Arson	.2%
D.U.I. (with priors OR injury)	1.2%
Escape	.1%
Possession of a weapon (Felon in possession)	3.5%
Theft with prior felony conviction(s)	3.1%
Drug manufacture, sale, or possession for sale	12.3%
Lesser offense with serious or violent strike prior(s)	7.1%
SUBTOTAL inmates convicted of crimes against the person, serious or violent crimes, or crime aggravated by prior felony conviction(s)	87.0%*

*The remaining inmates were not identified by commitment offense or were committed for drug possession or theft related felonies without identifiable aggravating criteria. Nonetheless almost all of these offenders have extensive juvenile and/OR adult records for commission of a wide spectrum of felonies.

*3% of inmates were not identified by commitment offense.

The Tale of Two Felony Offenses:

More proof that criminal conduct has been deterred by Three Strikes can be found in California's Crime Index. Published since 1952, the California Crime Index (CCI) chronicles the annual number and rate of occurrence of both violent and property crimes. For each of its first fifty-one years, the CCI reported more burglaries than vehicle thefts. In 2003 and 2004, vehicle thefts exceeded burglaries.

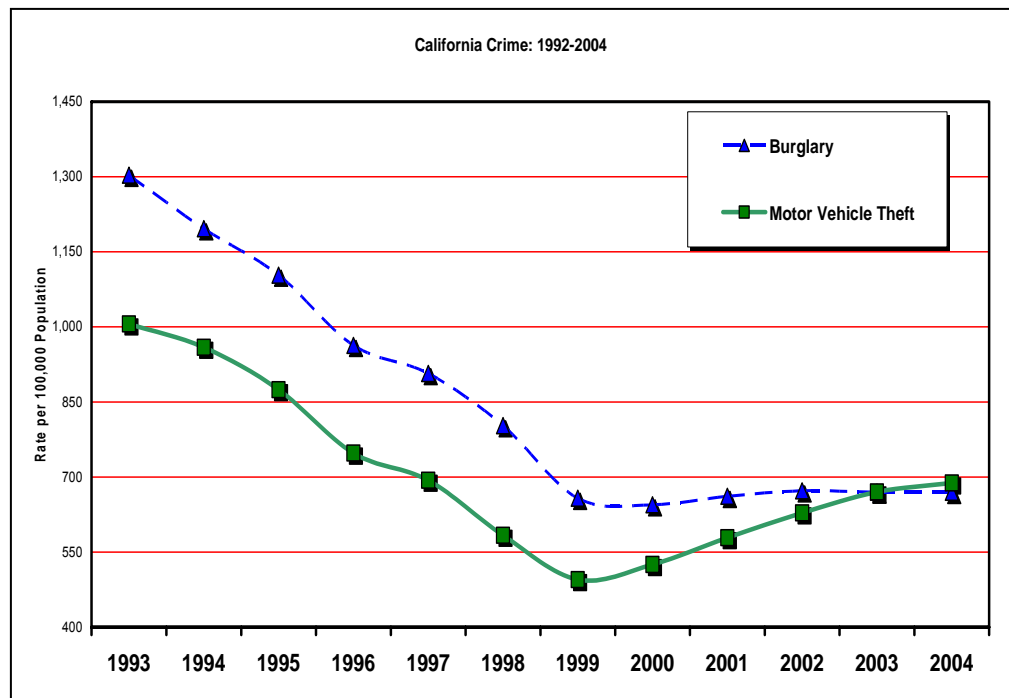
In 1993, the year before adoption of Three Strikes, there were approximately 100,000 more burglaries than car thefts in California. In 1994, the Three Strikes initiative designated burglary a "strike;" an offense that can be a predicate to a 25-year-to-life sentence. In the ten years since, the incidence of vehicle theft has surpassed burglary. Vehicle theft is not a strike.

Since 1999, informed criminals have made vehicle theft the fastest growing felony reported in the CCI. Between 1999 and 2004, the number of vehicle thefts in California increased by 83,000, four times the increase in burglaries during the same period. The incidence of vehicles stolen in 2004 represents a 49% increase over 1999 and a 39% increase in rate per 100,000. The burglary rate from 1999 to 2004 increased 1.8% per 100,000.

For critics who might contemplate that the accelerated increase in car theft versus burglary is part of a national trend – it is not. While the rate of vehicle theft increased 39% in California, the national rate actually declined slightly during the period from 1999-2004.¹ Moreover, unlike California, the rate of burglary remains higher – almost 75% higher than vehicle theft on a national basis.

Sometimes things are simply what they appear to be. California's rate of vehicle theft has increased dramatically relative to burglary in large part because burglary is a "strike" offense with corresponding penalties, while vehicle theft is not.

According to the California Department of Justice, the trend has continued. In the first half of 2005, the incidence of vehicle theft in California increased 6.3% while burglary increased a more modest 1.2%. [Half-year figures are unadjusted for increases in state population.]



¹ In 1999, 422.5 cars were stolen per 100,000 inhabitants. In 2004 the rate was 421.3 from "Crime in the United States 1985-2004"

Conclusion:

Simply stated, many public perceptions about Three Strikes and our prison system are plain wrong. California's prison population has not exploded in years following adoption of Three Strikes and actually declined in three of the last six fiscal years. California's incarceration rate is not the highest among the states or even among the top fifteen states. This is so, even though California is burdened with 40% (30,200) of all illegal aliens incarcerated in U.S. state prisons – far more than the next four states combined: Texas, New York, Florida, and Arizona. In the absence of this disproportionate number of illegal alien inmates, California's incarceration rate would be below the national average. While perplexing problems persist, during the last decade California has experienced both an unprecedented drop in crime and a decline in its incarceration rank among states. California's incarceration rate was lower in 2005 than in 1999 (see chart on page 3).

Much of this experience is attributable to Three Strikes. Like all laws, Three Strikes can always be improved. It is essential, however, that a rational debate be based upon the available facts. Those who insist that Three Strikes has had little impact on crime are resisting or ignoring the facts. Currently, at least 23 states have some sort of Three Strikes sentencing law with 10 states adopting statutes in 1995, the year after voters approved California's Prop 184. Not surprisingly, these states have also experienced reductions in crime. If the reduction in crime experienced following the adoption of Three Strikes was part of a national trend, it was a trend of increasing criminal penalties with California at its forefront. A 2005 Forbes magazine article entitled "Lock Em' Up" summarized the premise explaining, "[T]here's a stunningly simple explanation for the huge drop in crime rates: The villains are behind bars."
